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Dept of Justice

OIC-77-5651/1



CENTRAL INTELLIGENCE AGENCY

Office of Legislative Counsel

Washington, D. C. 20505

Telephone:

TO: Mr. Dave Barrett
Department of Justice
Office of Legislative Affairs

13 March 1978

Dave:

Attached for your consideration are our changes to your draft bill on S. 1845. Please note that in (B) we would like all the language that is crossed through deleted. If the language remains in the bill, it would have to be modified with such language as the following: "that section 553 of the Title 5, shall not apply to any regulation which govern such polygraph-testing in the case of persons outside of the competitive service."

SIGNED

Office of Legislative Counsel

FORM 1533 OBSOLETE
6-68 PREVIOUS
EDITIONS

(40)

Change section 247(b)(1) to read:

(b)(1) No officer or employee of the United States nor any person acting for or on behalf of the United States shall require or request any officer or employee of the United States, or any individual seeking employment as an officer or employee of the United States, to take any polygraph test in connection with his or her services or duties as an officer or employee, or in connection with such individual's application or consideration for employment, except that such polygraph tests may be administered -- in accordance with regulations of the Civil Service Commission:

(A) in the course of an investigation by a law enforcement agency of an alleged criminal act committed by an officer or employee of the United States, provided that--

(i) there is probable cause to believe that such officer or employee has committed a criminal act;

(ii) such officer or employee freely and voluntarily consents to the polygraph test after being informed of the nature of the allegations against him, his privilege against self-incrimination, and his right to counsel; and

(iii) any such employee's refusal to submit to a polygraph test may not be used in any manner against him, either in the criminal investigation or in future personnel action, and no record of the polygraph test or the refusal to submit to it may be maintained outside law enforcement files; and

(B) to officers or employees of, persons assigned or detailed to, or affiliated with, any agency or department of the United States, as well as applicants or candidates for such positions or affiliations, if such persons actually perform or would perform national security, intelligence, or counterintelligence functions or support or security duties related to such functions, and to contractors or employees of contractors selected by any such agency or department to perform such functions or duties provided that such tests may be administered only in accordance with regulations approved by the head of the agency or department, or by the Civil Service Commission in the case of employees in the competitive service.